

## **REMARKS**

### **Status**

This Amendment is responsive to the Office Action dated 12/29/2005, in which Claims 1-17 were finally rejected. Claims 1, 3, 4, 7, 8, 12, and 16 have been amended. Accordingly, Claims 1-17 are pending in the application, and are presented for reconsideration and withdrawal of the final rejection and for allowance.

### **Claim Rejection - 35 USC 102**

Claims 1 – 2, stand rejected under 35 USC 102 as being anticipated by US Patent No. 6,894,686 (Stamper). This rejection is respectfully traversed.

It is a well established principle of patent law that in order for a reference to anticipate, it must disclose each of the elements of a claimed invention. Such is clearly not the case here. According to the invention defined by claim 1, there is provided a method of generating a three-dimensional animation model. The method includes: providing an hand-held image capture device, such as a digital camera, which has an image display; displaying a template in the image display; capturing an image of a subject when the subject is framed by the template; and generating a three-dimensional animation model by means of said hand-held image capture device using the captured image.

Stamper clearly fails as an anticipatory reference. Stamper discloses “A video/computer game machine maps external images onto animated game players in a game program. An image of a person’s face may be mapped onto the head of an animated game player.” (Abstract). The game machine 10 which is not hand-held and is supported on a table, is connected to a television 18 which is also not hand-held and rests on a table. A hand-held controller 16a is connected to the table supported game machine 10. A “digital camera cartridge 14 may be used in connection with the transfer cartridge 26 to interface the digital camera cartridge to the machine, via the transfer pack and controller.” (Col. 5, lines 9-12). The program to map a two-dimensional image onto a face of a three-dimensional head of an animated game player “may be included in a video game program” Col. 7, lines 32-33). This program is contained in a removable game cartridge 12 inserted into table-mounted game machine 10. Thus, Stamper does not disclose a hand-held image capture device that has a display on the hand-held device. In Stamper the display is a table-mounted television set. Further, Stamper does not disclose a hand-held image capture device which generates a

three-dimensional animation model. In Stamper, the image generating software is contained in a game cartridge which is inserted in table-mounted game machine 10. There is no disclosure in Stamper of the desirability or the means by which these elements forming a part of table-mounted devices can be combined with the controller to either anticipate or render obvious the invention defined by claims 1 and 2. Clearly, Claims 1 and 2 are novel and nonobvious over Stamper

### **Claim Rejections - 35 USC 103**

Claim 3 stands rejected under 35 USC 103 as being unpatentable over US Patent No. 6,061,532 (Bell) in view of Stamper. This rejection is respectfully traversed.

According to the invention defined by claim 3, there is provided a method of generating a three-dimensional animation model. The method includes providing an hand-held image capture device, the image capture device having a viewfinder, viewing a template in the viewfinder, capturing an image of the subject when the template is aligned with a subject, and generating a three-dimensional animation model by means of said hand-held image capture device using the captured image.

Bell discloses using a camera to capture a series of images which are then supplied to a photofinisher who combines the images with prerecorded material to produce a video movie. The succession of images of a subject are not different views of the same subject to be combined into a three-dimensional image, but rather a series of different poses of the subject which are used to create an animation video. The software to do this is contained in a table-mounted workstation, separate from the image capture device. Thus, Bell has the same problems as Stamper of failing to disclose an hand-held image capture device which generates a three-dimensional animation model. Combining Stamper with Bell fails to cure this problem since as discussed above, Stamper also discloses using a table-mounted game machine to produce an animation image. There is no disclosure in Bell of the desirability or means of attaining such a result. The further discussion above relating to Stamper is equally applicable here and therefore will not be repeated. Clearly, claim 3 is patentable over these references.

Claims 4 – 11 stand rejected under 35 USC 103(a) as being unpatentable over Stamper in view of Merrick US Patent 6.433.784.

The discussion above relating to the inapplicability of Stamper is equally relevant here and will not be repeated. Essentially, Stamper does not disclose a method of generating a three-dimensional animation model or an image

capture device where the hand-held image capture device generates the three-dimensional animation model. Merrick is cited for disclosing first, second, third and fourth templates. However the templates disclosed in Merrick are not the same as the templates defined in the invention of claims 4 – 11. In the claimed invention, the templates are used to align the hand-held image capture device with a subject so that an image of the subject can be captured by the device. The captured two-dimensional images are then used to create a three-dimensional model of the subject. In Merrick, the template described is a number of standard gestures displayed on a computer terminal display to electronically generate a series of electronic images of a character. There is no suggestion in Merrick that electronically displayed template gestures can be used to align a subject in an image capture device for subsequent capture of the images by the device. Moreover, the Merrick system uses each gesture separately to generate a sequence of images. In the claimed invention, the 2D images are of the same subject taken at different angles so that a composite 3D image can be created. Clearly, Claims 4 – 11 are novel and nonobvious over Stamper and Merrick

Claims 12 – 15 stand rejected under 35 USC 103(a) as being unpatentable over Segan US Patent 5,708,883 in view of Merrick. This rejection is respectfully traversed.

The invention defined by claim 12 – 15 comprises a hand-held image capture device including; a viewfinder for locating a subject, a rotatable template wheel having a first, second, third, and fourth templates disposed around the template wheel, the template wheel being rotatable for moving the first, second, third, and fourth template relative to the viewfinder to individually align the first, second, third, and fourth template in overlapping registration with the viewfinder, and an image capture member having a single lens for capturing a first, second, third, and fourth image when the first, second, third, and fourth template is aligned, respectively, with the subject.

Segan discloses a toy camera having two taking lenses 12, 14 and “behind the two taking lenses 12, 14, and their respective shutters --is a rotatable aperture plate 16 --- rotated by actuation of a film advance lever” (Col. 2, lines 51-52). “4. The camera of claim 1, wherein said film exposure means is a rotating aperture disc, said disc selectively permitting one of said lenses to expose said film at a time” (Col. 5, lines 1-3). The reference template 56a, 56b is not part of the “rotating aperture disc” and the passage at Col. 5 does not disclose how the reference template is moved relative to viewfinder lens 11. One thing is clear though, there is no disclosure in Segan that the reference template is actuated by the aperture plate 16. Merrick adds little to Segan. As discussed above, Merrick

does not disclose templates that are used to align an image capture device with a subject to aid in capturing an image of the subject. Neither Segan nor Merrick discloses how the displayed gestures of Merrick would be implemented in the toy camera of Segan. Segan is also deficient as a reference since it discloses a camera with two lenses, whereas, the claimed image capture device has only one lens. Clearly, claims 12 – 15 are nonobvious over the cited references.

Claims 16 and 17 stand rejected under 35 USC 103(a) as being unpatentable over Bell in view of Merrick. This rejection is respectfully traversed.

The discussions above relating to Bell and Merrick are equally applicable here and will not be repeated. As pointed out above, the templates of Merrick are not used to align a subject in a viewfinder to assist in capturing an image of the subject. Rather, the Merrick templates are viewed on an electronic display and assist in electronically assembling an animation character. Bell discloses templates used with a camera. There is no motivation in either reference to combine the teachings of one with the other and there is no disclosure in either reference how such a combination could be effected. Clearly, Claims 16 and 17 are patentable over the cited references.

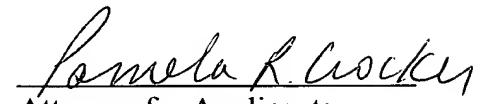
### **Summary**

Should the Examiner consider that additional amendments are necessary to place the application in condition for allowance, the favor is requested of a telephone call to the undersigned counsel for the purpose of discussing such amendments.

For the reasons set forth above, it is submitted that Claims 1 – 17 are allowable and that the application is in condition for allowance. Accordingly, reconsideration and favorable action are respectfully solicited.

The Commissioner is hereby authorized to charge any fees in connection with this communication to Eastman Kodak Company Deposit Account No. 05-0225.

Respectfully submitted,

  
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